



# City of Marietta

205 Lawrence Street  
Post Office Box 609  
Marietta, Georgia 30061

## Meeting Minutes CITY COUNCIL

*R. Steve Tumlin, Mayor*  
*Annette Paige Lewis, Ward 1*  
*Griffin "Grif" L. Chalfant, Jr., Ward 2*  
*Johnny Sinclair, Ward 3*  
*Irvan A. "Van" Pearlberg, Ward 4*  
*Rev. Anthony C. Coleman, Ward 5*  
*James W. King, Ward 6*  
*Philip M. Goldstein, Ward 7*

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Wednesday, October 13, 2010

7:00 PM

Council Chamber

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**Presiding:** R. Steve Tumlin, Mayor

**Present:** Annette Lewis, Grif Chalfant, Johnny Sinclair, Van Pearlberg, Rev. Anthony Coleman and Philip M. Goldstein

**Absent:** Jim King

***Also Present:***

*William F. Bruton, Jr. City Manager*

*Douglas R. Haynie, City Attorney*

*Stephanie Guy, City Clerk*

### CALL TO ORDER:

*Mayor Tumlin called the meeting to order at 7:00 p.m.*

### INVOCATION:

*Council member Annette Lewis called upon Jim Curtis, the City's Internal Auditor, to give the invocation.*

### PLEDGE OF ALLEGIANCE:

*Mayor Tumlin asked everyone to stand for the pledge of alliance.*

### PRESENTATIONS:

**20101127 US 10K Classic**

Presentation to the Mayor and City Council by Don Whitney, US 10K Classic.

**Presented**

**20101098 Cobb Chamber of Commerce Public Safety Recognition**

The city recognizes the following honorees from the Cobb Chamber of Commerce Public Safety Recognition Awards Breakfast held Monday, October 4, 2010. Marietta Police Department honoree's are as follows

Cobb Chamber of Commerce Public Safety Employee of the Year  
Officer Stewart Biggers

Cobb Chamber of Commerce Medal of Valor  
Sergeant Tim Lemming  
Officer Elizabeth Bedore  
Officer Andrew Colquitt  
Officer Dontay Garnigan  
Officer Brian Vaughan

Cobb Chamber of Commerce Award of Merit  
Detective Shannon Arrowood

**Recognized****20101113 Video Presentation**

Video of Marietta/Cobb Career Expo.

**Presented****PROCLAMATIONS:****20101097 Diaper Day Proclamation**

Presentation of a Proclamation declaring October 25, 2010 as the Second Annual "Cobb Diaper Day" in the City of Marietta. The Cobb Diaper Day Committee is committed to asking the business community, concerned citizens, and non-profit organizations, to collect diapers from employees, members and friends throughout the month of October. The single act of donating diapers on October 25, 2010 at 5:00 PM at Glover Park, on the Marietta Square can help hundreds of families in Cobb County.

**Read****ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:****CONSENT AGENDA:**

Consent agenda items are marked by an asterisk (\*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).

*Mayor Tumlin briefly explained the consent agenda process. The following amendments were made to the consent agenda:*

*-under Ordinances: Agenda item 20100968 was added to the consent agenda.*

*-under City Attorney's Report: Agenda items 20101128, 20101129 and 20101130 were added to the consent agenda.*

*-under Judicial/Legislative: Agenda item 20101066 was added to the consent agenda and amended to read, "Motion to approve revised site plan for Rockford Township development off Manning Road dated October 13, 2010 (as referenced in stipulation #2) and to revise stipulation #5 (see attached), both stipulations originally within the letter of stipulations dated March 21, 2006 from Garvis L. Sams, Jr. to Russell J. Roth regarding the application of Keeler Woods Joint Venture, LLC to rezone 27.7 acres of property located in Land Lots 0036 and 0037, 19th District, Parcel 001, 2nd Section, Marietta, Cobb County; Georgia. Further, the site plan, renderings and the revised stipulation #5 addendum, as amended, signed and dated by the applicant are incorporated by reference to the motion."*

*-under Other Business: Agenda item 20101084 was added to the consent agenda and amended to read, "Motion to approve the October 11, 2010 actions and minutes of the Board of Lights and Water, with the exception of agenda item 20101077 Kennesaw Avenue Utility Relocation Project/Change Order No. 1."*

**A motion was made by Council member Lewis, seconded by Council member Sinclair, to approve the consent agenda as modified. The motion carried by the following vote:**

**Vote: 6 - 0 - 0                      Approved**

with the following exceptions:

Council member Lewis and Goldstein voting against agenda item 20101066.

**MINUTES:**

**\*        20101083        Regular Meeting - September 15, 2010**

Review and approval of the September 15, 2010 regular meeting minutes.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0                      Approved**

**\*        20101081        Special Called - September 29, 2010**

Review and approval of the September 29, 2010 special called meeting minutes.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0                      Approved**

**MAYOR'S APPOINTMENTS:****CITY COUNCIL APPOINTMENTS:****\* 20101114 Historic Preservation Commission Appointment**

Appointment of Brett C. Bittner to the Marietta Historic Preservation Commission (Ward 1) for a three-year term expiring September 14, 2013.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0**

**Approved**

**ORDINANCES:****20100963 Z2010-10 Zion Baptist Church of Marietta, Inc. 397 Roosevelt Circle**

Z2010-08 [REZONING] AND [SPECIAL LAND USE PERMIT] ZION BAPTIST CHURCH OF MARIETTA, INC. request Rezoning and Special Land Use Permit for property located in Land Lot 1161, District 16, Parcel 54, 2nd Section, Marietta, Cobb County, Georgia and being known as 397 Roosevelt Circle; request for rezoning from R-4 (Single Family Residential) to R-4 with stipulations (Single Family Residential - with stipulations) to allow for an additional use - a halfway house; and request for special land use permit for place of assembly. Ward 5.

Planning Commission recommends approval as stipulated

Vote: 3 - 1 - 0 with Chairman Dollar opposed.

Motion: Mr. Carter made a motion to approve with stipulations, seconded by Mr. Gillis.

· Stipulation: Letter of Stipulations from John H. Moore to Russell J. Roth dated October 5, 2010. Additional stipulations added at the meeting include that residents will have either completed the Harmony House or other similar 90-day program or they will not have been incarcerated within the previous year; and also the addition of stipulation 4(a) that all residents will be subject to drug screening.

**PUBLIC HEARING (all parties are sworn in)**

*Mayor Tumlin opened the public hearing and called forward those wishing to speak. City Attorney Douglas Haynie explained the rules of order and swore in those wishing to speak regarding this matter.*

*The attorney for the applicant, John Moore of Moore Ingram Johnson and Steele, LLP, spoke regarding the rezoning request and Special Land Use Permit for property located at 397 Roosevelt Circle; request for rezoning from R-4 (Single Family Residential) to R-4 with stipulations (Single Family Residential - with stipulations) to allow for an additional use - a halfway house; and request for special land use permit for place of assembly.*

*Speaking in favor of the rezoning request and Special Land Use Permit:  
Clet Ray, who resides at 3441 Johnson Ferry Road.  
Pastor Travis of Zion Baptist Church  
Mary Stallworth, who resides at 404 Roosevelt Circle.*

*In depth discussion was held regarding the residents who would reside at the facility.*

*The public hearing was closed.*

**A motion was made by Council member Coleman, seconded by Council member Sinclair, to deny the request for rezoning and Special Land Use Permit. The motion carried by the following vote:**

**Vote: 5 - 0 - 1                      Approved to Deny**  
Abstaining: Annette Lewis

**\*            20100968            CA2010-07 Amendment to the Comprehensive Development Code regarding Definition of Terms**

**Ord 7499**

CA2010-07 [CODE AMENDMENT] Proposal to amend the Comprehensive Development Code of the City of Marietta, Section 724.02, Definition of Terms

Planning Commission recommends approval as stipulated Vote: 4 - 0 - 0  
Motion: Mr. Gillis made a motion to approve as stipulated, seconded by Mrs. Watkins.

Stipulation: Mr. Gillis stipulated in the paragraph regarding Debris that the word "non hazardous" be struck. Mr. Gillis also proposed in the section regarding Garbage that the words "tin cans, glass containers, and newspapers" be struck.

Mrs. Watkins asked that the definition of Clean be replaced with the definition of Sanitary and replace the definition of Sanitary with the definition of Clean

PUBLIC HEARING (all parties are sworn in)

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0                      Approved**

**RESOLUTIONS:**

**CITY ATTORNEY'S REPORT:**

**\*            20101128            Settlement Agreement**

Motion to approve a settlement agreement.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0                      Approved**

- \*        **20101129        Resolution for transfer of funds**  
  
          [Res 1501](#)        Approval of a Resolution authorizing the transfer of funds associated with a Settlement Request.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0                      Approved**

- \*        **20101130        Budget Amendment**  
  
          [Ord 7500](#)        Budget Amendment to transfer funds associated with a Settlement Request.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0                      Approved**

**CITY MANAGER'S REPORT:**

**MAYOR'S REPORT:**

**COMMITTEE REPORTS:**

**1. Economic/Community Development: Grif Chalfant, Chairperson**

- \*        **20101048        Marietta Growth Fund Grant Award**  
  
          [Ord 7498](#)        Approval of an Ordinance amending the Fiscal Year 2011 Marietta Growth Fund budget to receive and appropriate federal grant funds in order to award a grant to Prodew Inc.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0                      Approved**

**2. Finance/Investment: Annette Lewis, Chairperson**

- \*        **20101035        Budget Amendment**  
  
          [Ord 7497](#)        Approval of an Ordinance amending the Fiscal Year 2011 General Fund to receive and appropriate a grant from the Governor's Office of Highway Safety to establish and maintain a HEAT (DUI) unit.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0                      Approved**

**3. Judicial/Legislative: Philip M. Goldstein, Chairperson**

**20101020 Drive-in service windows for retail liquor sales**

Approval of an Ordinance amending Section 8 of the Code of Marietta, to allow businesses licensed by the city for retail sale of liquor to provide drive-in service windows.

**No Action Taken**

**\* 20101046 Georgia Department of Corrections Community Service Agency Agreement**

**C/A 3825**

Motion to approve an agreement with the Georgia Department of Corrections allowing Marietta to continue using Community Service Workers through the Cobb Circuit.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0**

**Approved**

**\* 20101066 Rockford Township Development**

Motion to approve revised site plan for Rockford Township development off Manning Road dated October 13, 2010 (as referenced in stipulation #2) and to revise stipulation #5 (see attached), both stipulations originally within the letter of stipulations dated March 21, 2006 from Garvis L. Sams, Jr. to Russell J. Roth regarding the application of Keeler Woods Joint Venture, LLC to rezone 27.7 acres of property located in Land Lots 0036 and 0037, 19th District, Parcel 001, 2nd Section, Marietta, Cobb County; Georgia.

*Motion to approve revised site plan for Rockford Township development off Manning Road dated October 13, 2010 (as referenced in stipulation #2) and to revise stipulation #5 (see attached), both stipulations originally within the letter of stipulations dated March 21, 2006 from Garvis L. Sams, Jr. to Russell J. Roth regarding the application of Keeler Woods Joint Venture, LLC to rezone 27.7 acres of property located in Land Lots 0036 and 0037, 19th District, Parcel 001, 2nd Section, Marietta, Cobb County; Georgia. Further, the site plan, renderings and the revised stipulation #5 addendum, as amended, signed and dated by the applicant are incorporated by reference to the motion.*

**This Matter was Approved on the Consent Agenda.**

**Vote: 4 - 0 - 2**

**Approved**

Voting Against: Annette Lewis and Philip M. Goldstein

**4. Parks, Recreation and Tourism: Johnny Sinclair, Chairperson**

**5. Personnel/Insurance: Van Pearlberg, Chairperson**

- \*      **20100956**      **NLC Annual Congress of Cities Business Meeting**
- Motion appointing Annette Lewis as voting delegate and Rev. Anthony Coleman as alternate voting delegate for the National League of Cities (NLC) Congress of Cities' Annual Business Meeting to be held November 30 - December 4th at the Colorado Convention Center in Denver, Colorado.
- This Matter was Approved on the Consent Agenda.**
- Vote: 6 - 0 - 0**                      **Approved**
- \*      **20101025**      **Marietta Museum of History Appointments**
- Approval of Board recommendation to re-appointment Amanda Canup, Charles Brown III, and Jim Glover to the Museum Board of Directors for three-year terms expiring October 31, 2013.
- This Matter was Approved on the Consent Agenda.**
- Vote: 6 - 0 - 0**                      **Approved**
- 6. Public Safety Committee: Anthony Coleman, Chairperson**
- 7. Public Works Committee: Jim King, Chairperson**
- \*      **20101038**      **Mountain View Road "No Parking" Signs Hearing Authorization**
- Motion to authorize staff to post a notice of a public hearing to be held during the next Public Works Committee meeting regarding the installation of "No Parking" signs on both sides of Mountain View Rd between Maple Ave. and Stewart Ave.
- This Matter was Approved on the Consent Agenda.**
- Vote: 6 - 0 - 0**                      **Approved**
- \*      **20101040**      **Nancy Street "No Parking" Zone**
- Motion to approve request for the rezoning of Nancy Street to parking on one side of the street only and having "No Parking" signs erected on the residential side of the street as requested by Council Member Pearlberg.
- This Matter was Approved on the Consent Agenda.**
- Vote: 6 - 0 - 0**                      **Approved**
- \*      **20100166**      **582 N. Fairground Street**
- Motion authorizing acquisition of right-of-way and easements of 582 N. Fairground Street in exchange for \$14,035.00 from Alvin G. Bloodworth for the purpose of Fairground Street Improvements.
- This Matter was Approved on the Consent Agenda.**
- Vote: 6 - 0 - 0**                      **Approved**



- \* **20101106**      **Motion authorizing acquisition of right-of-way easements and property within the following properties for the purpose of Fairground Street Improvements.**

350 S. Marietta Pkwy for owner to replace sign meeting current ordinances and avoiding conflicts with relocated utilities for \$10,000.00 from D&L Leasing

501 N. Fairground St in exchange for \$8,200.00 from John Johnson

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 – 0**

**Approved**

- \* **20101042**      **2010 Gateway Grants**

Motion to apply for two Gateway Beautification Grants from Georgia Department of Transportation.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 – 0**

**Approved**

#### **SCHEDULED APPEARANCES:**

- 20101107**      William Hoyt, 420 Williamson Street, SE  
Re: Noise from "Club Kongas" located at 401 Roselane, Marietta  
Business License: Ruben Dario Montes, REMD Productions, Inc. d/b/a Kongas Nightclub

*William Hoyt, who resides at 420 Williamson Street, expressed concern regarding the noise from the Kongas Nightclub located at 401 Roselane in Marietta.*

#### **UNSCHEDULED APPEARANCES:**

*Other citizens speaking expressing concern regarding the noise from Club Kongas:  
Jason Gaines, who resides at 428 Williamson Street.  
Michael Donald, who resides on Williamson Street*

*Ruben Dario Montes, owner of the Kongas Nightclub, spoke regarding citizens concerns.*

*Matthew Godwin, who resides at 222 Austin Avenue, spoke regarding the petty crime in his neighborhood.*

*Stacy Evans introduced herself as a candidate running for the State Housing of Representatives, District 40.*

#### **OTHER BUSINESS:**

- \* **20101085**      **Request from the Citizens Advisory Committee for Marietta Parks (CACMP)**

Motion to allow the CACMP to post survey questions on the City's website for citizen input, as approved by the Parks and Recreation Director and the City Manager.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0**

**Approved**

**\* 20101103 16 Hedges Street**

Motion to authorize the acquisition of property owned by Wallace L. Crowder and Freddy L. Crowder on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0**

**Approved**

**\* 20101105 383 N. Fairground Street**

Motion to authorize the acquisition of property owned by Mr. Melvin C. Holton on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

**This Matter was Approved on the Consent Agenda.**

**Vote: 6 - 0 - 0**

**Approved**

**\* 20101084 BLW Actions of October 11, 2010**

Review and approval of the October 11, 2010 actions and minutes of the Marietta Board of Lights and Water

*Motion to approve the October 11, 2010 actions and minutes of the Board of Lights and Water, with the exception of agenda item 20101077 Kennesaw Avenue Utility Relocation Project/Change Order No. 1.*

**This Matter was Approved as Amended on the Consent Agenda.**

**Vote: 6 - 0 - 0**

**Approved as Amended**

A motion was made in open session by Council member Pearlberg, seconded by Council member Sinclair, to enter an Executive Session to discuss real estate acquisition and legal matters. The motion carried by the following vote:

**Vote: 6 - 0 - 0                      Approved**

For: Annette Lewis, Grif Chalfant, Johnny Sinclair, Van Pearlberg, Rev. Anthony Coleman and Philip M. Goldstein

*The Executive Session was held.*

A motion was made in open session by Council member Pearlberg, seconded by Council member Goldstein, to close the Executive Session. The motion carried by the following vote:

**Vote: 6 - 0 - 0                      Approved**

For: Annette Lewis, Grif Chalfant, Johnny Sinclair, Van Pearlberg, Rev. Anthony Coleman and Philip M. Goldstein

#### **ADJOURNMENT:**

*The meeting was adjourned at 9:39 p.m.*

**Date Approved: 11/10/10**

\_\_\_\_\_  
**R. Steve Tumlin, Mayor**

**Attest: \_\_\_\_\_**  
**Stephanie Guy, City Clerk**